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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,872	01/10/2002	Robert P. Micciche	460.2060USU	6287

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,872

Applicant(s)

MICCICHE ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE dated October 6, 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 6, 2004 has been entered.

2. Claims 1-19, 22-43 are pending.

Claim Objections

3. Claim 4 is objected to because of the following informalities: in line 2, "consisting of one of more" should be replaced with "consisting of one or more". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-12, 15-17, 23-33, 35, 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (WO 98/44185), hereinafter "Rogers".

Rogers teaches an article for treating fabrics comprising an absorbent carrier substrate in sheet form and from about 10 grams to about 30 grams of a liquid cleaning/refreshment composition releasably absorbed in said substrate, said substrate being wholly or partly covered by a fibrous coversheet which is permeable to said cleaning/refreshment composition (see abstract, claim 10). Rogers also teaches a pre-spotter on a sheet substrate, the pre-spotter comprising 1.00 wt% Neodol 23-6.5 (a nonionic surfactant), 9.2 wt% butoxy propoxy propanol (BPP), 0.65 wt% 1,2-octanediol, 1.00 wt% perfume, 0.125 wt% PEMULEN TR-1, 0.063 wt% KOH, 0.075 wt% KCl, 0.0003 wt% KATHON CG (preservative) (or a range of 0.0001-0.001 wt%) and 87.887 wt% water (see Example III on page 45). The composition can also comprise an anti-static agent which include the series of sulfonated polymers from about 2% to about 8% by weight of the composition (see page 46, lines 6-10). In Example II, Rogers teaches a pre-spotting formula for use with a stain receiver comprising 1.0 wt% hydrogen peroxide, 2.0 wt% BPP, nonionic surfactant, Kathon preservative and water having a pH in the range from 6-8 (see page 44, line 20 to page 45, line 18). Rogers also teaches that the carrier sheet/coversheet article is placed in a pouch, 23 grams of liquid product is poured onto the carrier sheet/coversheet and allowed to absorb for about 4 hours and the pouch is sealed immediately after the liquid product is introduced into the pouch and stored until time-of-use (see Example 1 on pages 42-44). Rogers also teaches that the carrier comprises optional low binder, hydroentangled absorbent material, especially a material which is formulated from a blend of cellulosic, rayon, polyester and

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optional bicomponent fibers (see page 9, lines 3-5). Rogers teaches the limitations of the instant claims. Hence, Rogers anticipates the claims.

6. Claims 1-4, 8-12, 18-19, 23-25, 27, 30-33, 35 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Deleo et al. (US Patent No. 6,340,663), hereinafter "Deleo".

Deleo teaches a general purpose cleaning wipe comprising a wipe which preferably comprises at least one layer of nonwoven material, and a liquid cleaner which comprises a surfactant, a hydrophilic polymer and the remainder, water (see abstract; col. 1, lines 4-7; col. 2, lines 12-22). The substrate for the wipe has a liquid loading capacity of at least about 50%-1000% of the dry weight thereof, most preferably at least about 200%-800% (see col. 3, lines 52-56). In Table I, Deleo teaches a liquid cleaner consisting of 3.0% isopropyl alcohol (which is bifunctional which acts as a solvent and preservative, see col. 11, lines 1-3), 0.6% glycol ether, 0.1% APG surfactant (alkyl polyglycosides), 0.05% polyacrylic acid and the balance, deionized water, which liquid cleaner is loaded onto a wipe and wherein the wipe is typically made from fibrous sheet materials, for example, spunlaced pulp-polyester blend, spunlaced pulp-polypropylene, meltblown polypropylene, carded nonwoven rayon/polyester (see col. 11, lines 6-54). The wipes can be packaged as numerous, individual sheets which are then impregnated or contacted with the liquid cleaning ingredients for more economical dispensing, even more preferably, the wipes can be formed as a continuous web and loaded into a dispenser such as a canister with a closure, or a tub with closure (see col. 3, line 65 to col. 4, line 7). The liquid cleaner should inherently possess a pH as those recited because same ingredients with overlapping proportions have been utilized. Hence, Deleo anticipates the instant claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 5-7, 13-14, 17, 26, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deleo as applied to the above claims.

Deleo teaches the features as described above. In addition, Deleo teaches that surfactants in liquid systems are sometimes subject to attack from microorganisms, it is advantageous to add a mildewstat or bacteriostat or other preservatives such as parabens, short chain organic acids and bisguanidine compounds (see col. 10, lines 50-67). Deleo also teaches that the materials for the wipe can comprise synthetic or natural fibers or combinations thereof, and a binder may be

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present (see col. 3, lines 37-39). The glycoside surfactant may be used in conjunction with other surfactants such as quaternary ammonium salts or amine oxides (see col. 5, line 51 to col. 6, line 17). Other ingredients include the sodium salt of citric acid (see col. 8, lines 40-50). Other solvents include ethylene, propylene and butylene glycols, and alkylene glycol ether solvent (see col. 9, lines 9-53). Deleo, however, fails to specifically disclose a liquid cleaner with the specific preservative, pH control agent, softening agent, surfactant and carrier as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate preservatives like parabens, sodium citrate, quaternary ammonium salts or amine oxides and solvents like ethylene glycol into the liquid cleaner because Deleo teaches that these ingredients are advantageous to the composition.

10. Claims 1-14, 17-19, 22-27, 30-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/30956, hereinafter "WO '956".

WO '956 teaches wet wipes for use in wiping surfaces in the home and in industry, in addition to their use on the human body such as for baby wipes, make-up removal and other skin care applications (see abstract). The wipe comprises a substrate which is coated or impregnated with a liquid composition, wherein the substrate may be woven or nonwoven and may be composed of natural or synthetic fibers (see page 7, last paragraph). The substrate can also have other components such as starch binders (see page 8, lines 13-25). The substrate may be produced by any method known in the art such as air-laying, wet laying or hydroentangling (see page 8, line 29 to page 9, line 3). The substrate may be treated with treatment chemicals such as fluorinated materials like fluoropolymers (see page 12, line 27 to page 13, line 25). The wet

wipes are stacked and then stored in a rigid dispensing container (see page 13, lines 27-32). Typically, the composition will comprise from 2 to 50% by weight of actives and from 50% to 98% water (see page 15, lines 18-21). The composition comprises silicone based oils, emulsifying agent such as a copolymer of C10-C30 alkyl acrylates and one or more monomers of acrylic acid or methacrylic acid, preservative like methylparaben, ethylenediamine-tetraacetic acid and salts, polyhydric alcohols such as propylene glycol, water soluble lanolin derivatives, water soluble surfactants or detergents, preferably nonionic or amphoteric, pH adjusters, perfumes and the like (see page 15, line 23 to page 17, line 14). In preparing wet wipe products the composition can be applied to the substrate by spraying or coating (see page 17, line 21 to page 18, line 2). The composition is typically applied in an amount from about 0.5 g to 10 g per gram of substrate (see page 18, lines 9-11). WO '956, however, fails to specifically disclose the pH of the composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the compositions of WO '956 to have a pH within those recited considering the similarities of ingredients used in the composition and the utility in wiping surfaces in the home and in industry.

Response to Arguments

11. Applicants' arguments filed September 7, 2004 have been fully considered but they are not persuasive.

With respect to the rejection based upon Rogers, Applicants argue that Rogers' disclosure on page 10, last paragraph regarding the compositions being substantially free of various

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polyacrylate-based emulsifiers and polymeric anti-static agents except at low levels of about 0.1%-0.3% of the final composition, is contradictory to the use of polymeric anti-static agent (sulfonated polymers available as VERSAFLEX 157...) in Example III in amounts of at least about 0.5%, typically from about 2% to about 8% by weight of the composition, and one would not use sulfonated polymeric anti-static agent, let alone in amounts disclosed in Example III.

The Examiner respectfully disagrees with the above arguments because the fact remains that Rogers teaches the use of sulfonated polymers, which are sulfonated styrene/maleic anhydride polymers, as exemplified in Example III, in amounts within those recited. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. V. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. Denied, 469 U.S. 851 (1984), see MPEP 2141.02, MPEP 2145X.D.1.

With respect to the rejection based upon WO 00/30956 (WO '956), Applicants argue that the fluoropolymers of the WO '956 application are treatments for the substrate itself and there is no disclosure or suggestion that the fluoropolymers are used or could be used to treat the surface being cleaned, as in the present invention.

The Examiner respectfully disagrees with the above arguments because on page 13, lines 24-25, WO '956 teaches that the chemicals, which include the fluoropolymers, may be added to the substrate as a component of the lotion or independently. Please note also the teachings on page 16, lines 16-25, which discloses that in a preferred embodiment, a copolymer of C10-C30 alkyl acrylates and one or more monomers of acrylic acid, methacrylic acid are used as emulsifying agents in the range of 0.02% to 5.0% by weight of the composition.

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12. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lorna M. Douyon
Primary Examiner
Art Unit 1751